UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,333	09/18/2003	Robert Fransdonk	5782P029	5440

7590 05/26/2010

Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
121 South Eighth Street
Minneapolis, MN 55402

EXAMINER	
WIN, AUNG T	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
05/26/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/665,333	FRANSDONK, ROBERT	
	Examiner	Art Unit	
	AUNG WIN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33 and 35-37* is/are pending in the application.

4a) Of the above claim(s) *34* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33 and 35-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/07/2010 has been entered.

Response to Arguments

Applicant's arguments with respect to amended claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 36 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 36 is directed to a machine-readable medium storing executable instructions that is not limited to a tangible, and thus, statutory medium. The scope of "machine-readable medium" as defined in the specification includes signal-based mediums such as "carrier wave signals"*(see Specification, 0353)*. A signal does not fall within one of the four statutory categories of invention *(i.e.,*

process, machine, manufacture, or composition of matter) because it is an ephemeral, transient signal and thus is non-statutory. Since the scope of "computer-readable medium" includes these non-statutory instances, claim(s) is/are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

1. Claims 1, 3-5, 7-17, 19-33, 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Pruss et al. (US20040193513A1), further in view of Seago et al. (US20040054923A1).

1.1 Regarding claims 1 & 35, Hans discloses media delivery network, which includes:

a media server to store content to deliver to a content consumer upon demand [content provider server: (Figure 2) (remote content provider 16: Figures 1 & 3) (Figure 5)];

a digital rights server to store content consumer rights defining access rights of a content consumer with respect to the content [Content Management server implemented with rights manager 40, access manager 42, royalty manager 44, user profile storage manager 46 to store content consumer rights defining access rights of a content consumer with respect to content: paragraph 0027];

wherein the delivery of the content to the content consumer is monitored according to consumer usage patterns by the digital rights server and the access rights of the content consumer **are updated** in response to content usage patterns during which the content was delivered to the content consumer [updating the user's personal profile according to user's content usage patterns: paragraph 0029].

Thus, Hans' digital rights server is configured to determine the user's rights in order to either authorize or deny the transmission of the requested content from remote content server to the user and further configured to update user's rights in response to a usage patterns i.e., Hans' digital rights server update the user access rights during which the content was delivered to the content consumer [0027-0029]. Hans's digital content access management system and method does not explicitly teach that stored consumer rights include an amount of delivery time available to the content consumer and digital right server determines delivery of content to the content consumer based on claimed comparison.

Pruss et al. discloses access management system and method in which authorization server determines whether the user's stored prepaid account contain sufficient remaining prepaid time or credit value to cover the requested service in

providing requested service i.e., delivery of the content to consumer is conditional upon there being more than a preset amount of delivery time as compared to the stored amount of delivery time available to the content consumer as claimed [0007, 0067 & 0068].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to modify Han's access management system and network according to pay-per-duration service according to Pruss et al. so that stored content consumer rights include an amount of delivery time available to consumer and digital right server determines delivery of content to the content consumer based on claimed comparison. One of ordinary skilled in the art at the time of invention of made to facilitate the pay-per-duration service for enhanced content delivery service and system.

The network as modified above does not explicitly disclose a digital rights server to store content owner rights defining access polic**ies** to the content as established by a content owner although modified digital right server is implemented with royalty manager to determine prescribed royalty fees in determining the delivery of the content.

Seago discloses wireless content delivery network 100 [Figure 1] comprising content provisioning system with data storage server to store content consumer rights defining access rights of a content consumer with respect to content [Client rights profiles 158: Figure 1] and content owner rights defining access policies to the content as established by content provider [Access/Rights Rules Sets 160: Figure 1]. Seago also teaches that access rights of the content consumer are updated when requested

content is delivered to the content consumer as necessary [content action is performed at 276 followed by an updating as necessary of the client rights profiles: 0042].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to further modify digital right server to enable the content owner to define access policies and to store the content owner rights as taught by Seago in provisioning the media delivery network with media server and digital rights server as claimed. One of ordinary skilled in the art at the time of invention of made to do this to provide improved content delivery network with improved digital right managements to content by giving content owner the ability to define access policies in providing content.

1.2 As regards to claim 17, it would have been obvious to one of ordinary skilled in the art that the modified network according to claim 1 would teach claim 17 streaming media pay-per-duration method because modified network execute streaming media pay-per-duration method substantially close to the pay-per-duration method executed by claim 1 network.

1.3 Claim 28 is also rejected for the same reason as stated above in Claims 1 & 17 rejection because claimed monitoring method is substantially close to corresponding method utilized in network as claimed in claim 1. It would have been obvious to one of ordinary skilled in the art that the modified method and network would teach monitoring method with signaling sequences and session data as claimed because the modified

network according to claims 1 & 17 is configured to provide pay-per-duration streaming media delivery method based on user request in which user can interactively request the streaming data. It should also be noted that claimed streaming media access based on request i.e., session request via known session signaling protocols are well known to one of ordinary skilled in the art at the time of invention of made and expected in any streaming media network that allow the user to interactively request the streaming media.

1.4 As regards to Claim 36, it would have been obvious to one of ordinary skilled in the art that the modified network and method would teach sequence of instructions for executing steps according to the claim 36 because modified network and method according to claim 1 is executed by computing devices and executed steps is substantially close to corresponding executed steps of claim 36.

1.5 As regards to Claims 3, 20 & 31, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 3, 20 & 31 because modified network teaches a plurality of content providers [Seago: Content providers 190: Figure 1].

1.6 As regards to Claims 4, 5, 7, 8, 19, 21, 22, 29, 30, 32 & 33, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 4, 7, 8, 19, 22, 29, 30 & 33 because modified network

teaches pay-per-duration access service for streaming media sessions in which users are authorized for streaming media based on stored and updated user's rights [see claim 1 rejection].

1.7 As regards to Claims 9, 10, 24 & 25, it would have been obvious to one of ordinary skilled in the art that the modified network teaches communication between media server and digital rights server for session data (i.e., access rights for streaming media session) and further selectively authorizes streaming of the media based on the session data as claimed (i.e., delivering streaming media based on authorized user access rights) as claimed because modified network teaches provisioning pay-per-duration streaming media service [see claims 1 rejection].

1.8 As regards to Claims 11, 12, 13 & 26, it would have been obvious that modified network teaches claimed digital right agent because content delivery is based on owner rights defined by content owner (second access operation) and content consumer rights purchased from service provider by content consumer [see modified network according to claims 1 & 17 in view of Seago: (Rights manager 170, Rights Granted Mechanism and Usage & Rights Reporting Mechanism 168 of Seago)].

1.9 As regards to Claim 14, it would have been obvious to one of ordinary skilled in the art that modified network teaches updating rights as claimed because modified network allow the content consumer to update their rights [Seago: 0025].

1.10 As regards to Claim 15, Official notice is taken that storing and retrieving content consumer rights at/from particular server/location in the system would have been obvious matter of design choice and does not constitute patentable distinction from modified system and method. It would have been obvious to one of ordinary skilled in the art at the time invention was made would realize that numerous arrangement and changes can be made to the modified method and system without departing from the scope of the pay-per-duration invention method and should not be limited to the presently particular arrangement stated herein and may be applied/stored in any arrangement based on design preferences.

1.11 As regards to Claims 16 & 23, it would have been obvious to one of ordinary skill in the art the modified network and method teaches communication between media server and digital rights server as claimed because modified network teaches provisioning user authorized time duration (i.e., pay per duration service: see claim 1 rejection) for accessing streaming data for only authorized time based on modified digital right server and content media server.

1.12 As regards to Claim 27, it would have been obvious to one of ordinary skilled in the art that modified network teaches claimed associating step in order for the modified network to provide content delivery service based on content consumer access rights [see claim 17 rejection].

1.13 As regards to claim 37, it would have been obvious to one of ordinary skilled in the art that the modified network and method as stated above in claim 1 would teach claim 37 streaming media pay-per-duration method because modified network executes streaming media pay-per-duration method substantially close to the claim 17 method [also see reauthorization consumer following exhausted delivery time as disclosed in Pruss et al.:]

2. Claims 2, 18 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Pruss et al. (US20040193513A1), further in view of Seago et al. (US20040054923A1) and Lagerweij et al. (US20030217163A1).

2.1 As regards to Claims 2 & 18, modified method and system discloses claims 1 and 17 but does not explicitly teach interactive streaming media delivery and control method according to claims 1 and 17. Lagerweij et al. teaches that deliver the streaming media based on interactive user commands [Lagerweij et al: (user is allowed to stop, pause and restart the media stream: 0040]. Therefore, it would have been obvious to one of ordinary skilled in the art at the time invention was made to further modify the method and network to facilitate monitoring the streaming media delivery based on interactive user commands as taught by Lagerweij et al. so that timing of the content delivery is at least paused according to claims 2 & 18. One of ordinary skilled in

the art at the time invention was made would have been motivated to further modify the method and network for enhanced streaming media service.

2.2 As regards to claim 6, the network as modified above teaches the claim 1 network for delivering streaming media but does not explicitly teach that streaming media delivery is denied after a certain position within the media has been reached.

Lagerweij teaches the method and network of delivering streaming media and further teaches claimed limitation i.e., streaming media delivery is denied after a certain position within the media has been reached [(a certain position i.e., predefined point in time within the media has been reached: 0040, Lines 24-55)].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time when invention was made to further modify the network as taught by Lagerweij to control the delivery of the streaming media up to a certain position as claimed. One of ordinary skilled in the art at the time of invention of made to do this to enhance streaming media service with complex access rights rules.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AUNG T. WIN whose telephone number is (571)272-7549. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AUNG WIN/
Examiner, Art Unit 2617

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617